

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-3  
NON-FINANCIAL ELIGIBILITY REQUIREMENTS**

**TABLE OF CONTENTS**

1240-1-3-.01	Non-Financial Eligibility Requirements	1240-1-3-.32	Child Support - AFDC Only
1240-1-3-.02	Residence	1240-1-3-.33	Referrals by IV-A to the IV-D Agency
1240-1-3-.03	Temporary Absences AFDC	1240-1-3-.34	Assignment of Support Rights - AFDC Only
1240-1-3-.04	Termination of Residence	1240-1-3-.35	Cooperation In Child Support Activities
1240-1-3-.05	Reporting Addresses	1240-1-3-.36	Good Cause for Refusal to Cooperate
1240-1-3-.06	Verification	1240-1-3-.37	Child Support Sanctions
1240-1-3-.07	Reserved for Future Use	1240-1-3-.38	Budgeting Procedures
1240-1-3-.08	Citizenship	1240-1-3-.39	Treatment of Support Payments
1240-1-3-.09	Verification of US Citizenship	1240-1-3-.40	Repealed
1240-1-3-.10	Method of Verification of US Citizenship	1240-1-3-.41	Repealed
1240-1-3-.11	Promptness of Case Action - Questionable Citizenship	1240-1-3-.42	Reserved for Future Use
1240-1-3-.12	Eligible Aliens	1240-1-3-.43	Food Stamp Program Work Requirements
1240-1-3-.13	Ineligible Aliens	1240-1-3-.44	Employment and Training Components
1240-1-3-.14	Verification of Alien Status	1240-1-3-.45	Failure to Comply, Good Cause, and Disqualification
1240-1-3-.15	Social Security Enumeration Requirements	1240-1-3-.46	Disqualification for Voluntarily Quitting a Job or Reducing Work Effort
1240-1-3-.16	Age Requirements - Food Stamps Only	1240-1-3-.47	Repealed
1240-1-3-.17	Age Requirements - AFDC Only	1240-1-3-.48	Repealed
1240-1-3-.18	School Attendance - Food Stamps Only	1240-1-3-.49	Repealed
1240-1-3-.19	School Attendance - AFDC Only	1240-1-3-.50	Repealed
1240-1-3-.20	Relationship Requirements AFDC Only	1240-1-3-.51	Reserved for Future Use
1240-1-3-.21	Evidence Regarding Relationship	1240-1-3-.52	Repealed
1240-1-3-.22	Reserved for Future Use	1240-1-3-.53	Repealed
1240-1-3-.23	Living in the Relative Home	1240-1-3-.54	Repealed
1240-1-3-.24	Care and Control	1240-1-3-.55	Repealed
1240-1-3-.25	Temporary Absence	1240-1-3-.56	Repealed
1240-1-3-.26	Eligibility of Maternity Home Residents	1240-1-3-.57	Reserved for Future Use
1240-1-3-.27	Individuals Not Eligible to Receive AFDC	1240-1-3-.58	Reserved
1240-1-3-.28	Deprivation of Parental Support/Care - AFDC Only	1240-1-3-.59	Reserved
1240-1-3-.29	Death of a Parent	1240-1-3-.60	Strikers - AFDC Only
1240-1-3-.30	Incapacity of a Parent	1240-1-3-.61	Repealed
1240-1-3-.31	Absence		

**1240-1-3-.01 NON-FINANCIAL ELIGIBILITY REQUIREMENTS.** Every applicant and recipient of AFDC and Food Stamps must meet certain technical eligibility requirements other than financial eligibility.

*Authority:* T.C.A. §14-8-106 and 45 C.F.R. 224.50. *Administrative History:* Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.02 RESIDENCE.**

- (1) As condition of eligibility to receive benefits, an HH/AG must reside in Tennessee. Food Stamp recipient must also reside in the county where benefits are received. While AFDC has no county residence requirements, the AFDC application is to be filed in the county of residence for processing purposes.
- (2) No individual may receive benefits as a member of more than one household or aid group or in more than one county or state within the same month with the following exception: For food stamp purposes, an individual or persons may participate as a member of more than one household if such persons are residents of a shelter for battered women and children as defined in 1240-1-8-.01(74) and was a member of a household containing the person who had abused him/her. There is no durational requirement in either AFDC or Food Stamps.
  - (a) Definition of Resident.

(Rule 1240-1-3-.02, continued)

1. Food Stamps. A resident is one who is living in the county in which an application for Food Stamp participation is filed. Residence shall not mean domicile nor shall the county impose any durational residence requirements. Residence shall not mean an intent to permanently reside in the county, however, persons in a county solely for vacations shall not be considered residents. A fixed residence is not required.
2. AFDC. For the purpose of the AFM Program, a resident is defined as one who:
  - (i) Is living in the state (or county) voluntarily with the intention of making his/her home here and not for a temporary purpose. A child is a resident of the state (or county) in which he/she is living other than on a temporary basis. (Persons in the state or county for visits or vacations are not residents.) or one who:
  - (ii) Is living, at the time of application, in the state (or county), not receiving benefits from another locality, and who entered the state (or county) with a job commitment or to seek employment. For this purpose, a child is a resident of the state (or county) where the caretaker is a resident.

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed April 2, 1982; effective May 17, 1982.

**1240-1-3-.03 TEMPORARY ABSENCES AFDC.** Temporary absences from the state (or county), with subsequent returns to the state or intent to return once the purpose of the absence has been accomplished, do not terminate residence. Residence is retained until abandoned. A decision to continue assistance to a recipient out of state will be based on two factors:

- (1) Whether it can be established that he/she is actually maintaining any identifiable living arrangement in Tennessee and he/she has plans to return to Tennessee, and
- (2) Whether he/she has applied for or is receiving assistance in the state where he/she presently is. If it cannot be established that the recipient is maintaining a home in Tennessee or it is established that he/she has applied for or is receiving assistance in the state where he/she is, it can only be assumed that he/she intends for the moment to remain out of Tennessee and assistance from this state will be discontinued. If a recipient remains out of the state longer than 3 months, the recipient will be required to provide a current statement about his/her intention to return to Tennessee. If he/she does not return at the time indicated, AFDC will be discontinued.

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.04 TERMINATION OF RESIDENCE.**

- (1) Food Stamps. When a Food Stamp recipient leaves a county for any place in the United States and requests case transfer, transfer procedures will be followed.
- (2) AFDC. When an AFDC recipient notifies the department (or it is learned) that he/she is moving out of state, payments must be terminated promptly within current fiscal and notice constraints. If a recipient is moving to another county within the state, the case is to be transferred to the new county.

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.05 REPORTING ADDRESSES.** An applicant/recipient may have both a physical address and a mailing address. If the two are different, both addresses will be required. A mailing address only, such as post office box, general delivery or a rural route, will not be sufficient as it does not indicate that the HH/AG resides in the county. If the address is a rural route, information must be given to identify the exact location of the home.

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.06 VERIFICATION.**

- (1) Food Stamps.
  - (a) The worker shall verify residence prior to certification except in unusual cases where verification of residency cannot reasonably be accomplished. For example, migrant farmworker households or homeless households newly arrived in a county area may not be able to verify their residency prior to certification.
  - (b) Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses, and identity. If verification cannot be accomplished in conjunction with the verification of other information, the worker shall use a collateral contact or other readily available documentary evidence. Documents used to verify other factors of eligibility should normally suffice to verify residency as well. Any documents or collateral contacts which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed. No durational residency requirement shall be established.
  - (c) When transfer procedures have not been followed, questions may arise regarding prior participation during the month of application. In all questionable cases, the county should call the Regional EDP Center and request that the information be verified through the CRT terminal or available Authorization to Purchase listing. The worker may also use a simple statement signed by the head of the household attesting to the fact that coupons were not obtained during the month in another county or state and attempt an after the fact verification.
- (2) AFDC. Some evidence of an applicant/recipient's residence is to be required prior to approval and at redetermination.
- (3) AFDC and Food Stamps. When evidence is necessary to establish residence, documents with the HH/AU's address shall be the primary source of verification although collateral contact and/or home visits may be used if documentary evidence cannot be obtained. Verification shall not be limited to a single document. Assistance must be provided to the HH/AU in obtaining verification if such assistance is needed.
  - (a) Duplicate Addresses. Duplicate addresses constitute questionable circumstances and require verification.
  - (b) Home Visit. Home visits shall be used as verification of residence only if documentary evidence cannot be obtained and the visit is scheduled in advance with the HH/AU.
  - (c) Collateral Contacts. A collateral contact is a confirmation of an HH/AU circumstances by a person outside of the household who is in a position to know the facts. The acceptability of a collateral contact shall not be restricted to a particular individual but may be anyone that can be expected to provide an accurate third party verification of the household's statement.

(Rule 1240-1-3-.06, continued)

- (d) Discrepancies. Where information from another source contradicts statements made by the HH/AU, the HH/AU shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination. If discrepancies cannot be resolved in a reasonable period of time, benefits will be denied/terminated.

**Authority:** T.C.A. §§14-8-103, 14-8-106, and 14-27-104; PL 99-198; 51 Federal Register 98 (May 21, 1986); 7 C.F.R. 273.2; 7 C.F.R. 273.3; 4 C.F.R. 233.40. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 28, 1981; effective October 13, 1981. Amendment filed September 29, 1986; effective December 29, 1986.

#### **1240-1-3-.07 RESERVED FOR FUTURE USE.**

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224-50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

#### **1240-1-3-.08 CITIZENSHIP.**

- (1) As a condition of eligibility to receive food stamps, an individual must be:
  - (a) A citizen of the United States, or
  - (b) A qualified alien who has been lawfully admitted for permanent residence as described in §1240-1-3-.12.
    - 1. The United States is defined as the 50 States and the District of Columbia, Puerto Rico, Guam and the Virgin Islands. In addition, nationals from American Samoa or Swain's Island are considered US citizens for eligibility purposes.
    - 2. An assistance group (AG) with a member who does not meet one of the above criteria will not prevent the remainder of the food stamp household from applying for benefits and, if eligible, receiving benefits.
- (2) As a condition of eligibility for cash assistance under a program authorized by Title IV-A of the Social Security Act, an individual must be:
  - (a) A citizen of the United States, or
  - (b) An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law as described in §1240-1-3-.12.
    - 1. The United States is defined as the 50 States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. In addition, nationals from American Samoa or Swain's Island are considered US citizens for eligibility purposes.
    - 2. An ineligible alien will be excluded from the Families First assistance group, but may receive a grant for children in his/her care if they are eligible.

**Authority:** T.C.A. §§4-5-202, 71-1-105, 71-3-157, and 71-3-158; PL 104-193; 7 C.F.R. 273.4; 45 C.F.R. 233.30. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repealed and new rule filed April 4, 1997; effective June 18, 1997.

**1240-1-3-.09 VERIFICATION OF US CITIZENSHIP.** An applicant's statement that he/she and members of the HH/AG are US citizens will be verified only when the statement is questionable.

*Authority:* T.C.A. §14-8-106 and 45 C.F.R. 224.50. *Administrative History:* Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.10 METHOD OF VERIFICATION OF US CITIZENSHIP.** Acceptable forms of verification of citizenship include birth certificates, religious records, voter registration cards, certificates of citizenship or naturalization provided by INS, such as Identification Cards for use of Resident Citizens in the US (INS Form 1-179 or INS Form I-197) or US passports. If the above forms of verification cannot be obtained and the person can provide a reasonable explanation as to why verification is not available, a signed statement will be accepted from someone who is a US citizen which declares, under penalty of perjury, that the member in question is a US citizen. The signed statement shall contain a warning of the penalties for helping someone commit fraud.

*Authority:* T.C.A. §14-8-106 and 43 C.F.R. 224.50. *Administrative History:* Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.11 PROMPTNESS OF CASE ACTION - QUESTIONABLE CITIZENSHIP.**

- (1) When there is a question as to whether a member of an HH/AG is in fact a US citizen, prompt action is to be taken on the application as follows:
  - (a) Food Stamps. The member whose citizenship is in question shall be ineligible to participate and shall be treated as an excluded household member until proof of US citizenship is obtained. If eligible, the remaining members of the household may be certified; however, all the income, less a pro rata share, and all the resources belonging to the person whose citizenship is questionable shall be considered available to the remaining household members.
  - (b) Cash Assistance under Title IV-A of the Social Security Act. The person whose US citizenship cannot be verified within promptness standards will be excluded from the AG. Assistance payments for the remaining otherwise eligible persons will not be delayed. The income and resources of the excluded will not be taken into consideration in determining eligibility or the amount of payment unless the excluded person is a legally responsible relative of persons in the AG. When it is subsequently verified that the person is a US citizen, he/she may be added to the AG, with no new application required. Payment retroactive to the date of application (but not prior to October 1, 1994) may be made if all other eligibility requirements were met at that time.

*Authority:* T.C.A. §§14-8-106, 14-27-105; 7 C.F.R. 273.2 (f)(2)(ii)(b) and 45 C.F.R. 224.50. *Administrative History:* Original rule filed August 15, 198; effective September 29, 1980. Amendment filed May 17, 1983; effective June 16, 1983. Amendment filed April 4, 1997; effective June 18, 1997.

**1240-1-3-.12 ELIGIBLE ALIENS.**

- (1) Food Stamp Program.
  - (a) General Requirements. In addition to US citizens, certain aliens who are otherwise eligible are eligible to receive food stamp benefits. The alien status of each individual in the AG listed on the application as an alien is to be determined prior to certification/approval. Immigration and Nationalization Service (INS) documents presented or secured by the applicant/recipient shall be the primary source of verification of alien status. The Systematic Alien Verification for Entitlements (SAVE) system will be used whenever possible to validate the alien's document and status.
  - (b) Description of Eligible Aliens.

(Rule 1240-1-3-.12, continued)

1. Citizens and eligible aliens. The Department shall prohibit participation in the program by any person who is not a resident of the United States and one of the following:
  - (i) A United States citizen.
  - (ii) An alien who meets one of the following conditions, who is otherwise eligible, may receive benefits for a period of seven (7) years after designated alien status is achieved:
    - (I) a refugee admitted to the United States under section 207 of the Immigration and Nationality Act;
    - (II) an alien granted asylum under section 208 of the Immigration and Nationality Act;
    - (III) an alien whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act;
    - (IV) an alien granted status as a Cuban or Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980; or
    - (V) an alien admitted as an Amerasian immigrant under section 584 of the Foreign Operations, Export, Financing, and Related Programs Appropriations Act of 1988.
  - (iii) A permanent resident alien who is designated a qualified alien may receive benefits, if otherwise eligible, for an unlimited period of time. A qualified alien is one who:
    - (I) has worked 40 qualifying quarters of coverage under Title II of the Social Security Act, or can be credited with such qualifying quarters;
      - I. Beginning January 1, 1997, any quarter in which an alien received any Federal means-tested public benefit (SSI, cash assistance under Title IV-A of the Social Security Act) is not counted as a qualifying quarter.
    - (II) is a veteran of the U.S. Armed Forces, who was honorably discharged for reasons other than alienage;
      - I. The veteran must have met the minimum active-duty service requirements of section 5303A(d) of title 38, USC
      - II. Military personnel who die during active duty service are veterans.
      - III. Filipinos described in title 107, 38 USC are considered veterans.
    - (III) is an active duty member of the U.S. Armed Forces (other than active duty for training);
    - (IV) is the spouse or unmarried dependent child of an individual described in items (II) and (III) of this subpart.

(Rule 1240-1-3-.12, continued)

- (iv) The requirements in 1240-1-3-.12(1)(b)1.(i) - (iii) shall not apply to an alien eligible for and participating in the Food Stamp Program at the time of the enactment of Public Law 104-193 (August 22, 1996) until the later of April 1, 1997 or the recertification of their household's eligibility, so long as such recertification has been completed by August 22, 1997.
  - (v) Except as described in Subpart (ii) of 1240-1-3-.12(1)(b)1, an individual designated as a qualified alien defined in 1240-1-3-.12(1)(b)1(iii) who enters the United States on or after the date of enactment of PL 104-193 (August 22, 1996) is not eligible for any Federal means-tested public benefit for a period of five (5) years, beginning on the date of the alien's entry into the United States with a status of "qualified alien".
  - (vi) An otherwise eligible alien who on August 22, 1996 was lawfully residing in the United States and was receiving Supplemental Security Income benefits, is eligible for benefits in the Food Stamp Program.
  - (vii) An otherwise eligible disabled alien who on August 22, 1996 was lawfully residing in the United States and who is blind or disabled as defined by the Food Stamp Act of 1977, and who is receiving benefits or assistance for blindness or disability, is eligible for benefits in the Food Stamp Program.
  - (viii) An otherwise eligible individual who is an American Indian born in Canada to whom the provisions of Section 289 of the Immigration and Nationality Act (8 USC 1359) apply, or who is a member of an Indian tribe [as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 USC 450b(e))], is eligible for benefits in the Food Stamp Program.
  - (ix) An otherwise eligible individual who on August 22, 1996 was lawfully residing in the United States and who was sixty five (65) years of age or older, is eligible for benefits in the Food Stamp Program.
  - (x) An otherwise eligible child who on August 22, 1996 was lawfully residing in the United States and who is currently under age eighteen (18), is eligible for benefits in the Food Stamp Program.
  - (xi) An otherwise eligible individual who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in Section 101 of title 38, USC), his/her spouse or unmarried dependent child, and/or his/her unremarried surviving spouse, is eligible for benefits in the Food Stamp Program.
- (c) Eligibility of Sponsored Aliens. In determining the eligibility and amount of benefits of an alien for any Federal means-tested public benefits program, the income and resources of the alien shall be deemed to include:
1. All income and resources of any person who executed an affidavit of support under section 213A of the Immigration and Nationality Act on behalf of such alien;
  2. All income and resources of the spouse of any person described in subparagraph (b)1.(iii) of this paragraph;

(Rule 1240-1-3-.12, continued)

3. The income and resources specified in (1)(c)1. and 2. of this paragraph shall apply in determining eligibility at initial application and any reapplication for the alien until such time as the alien:
  - (i) becomes a naturalized citizen of the United States; or
  - (ii) has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act, and for any qualifying quarters worked after December 31, 1996, was not a recipient of any Federal means-tested public benefit during that period.
4. If, upon enactment of PL 104-193, a sponsor's income and resources are being deemed to an alien in determining his/her eligibility for any Federal means-tested public benefits program, the deeming provisions in (1)(c)1. and 2. of this paragraph are effective the day after the day of enactment of PL 104-193.
5. If, upon enactment of PL 104-193, no income and resources of a sponsor are being deemed to an alien in determining his/her eligibility for any Federal means-tested public benefits program, the deeming provisions in (1)(c)1. and 2. of this paragraph are effective at any eligibility determination beginning 180 days after the date of enactment of PL 104-193.

(2) Cash Assistance Program

- (a) General Requirements. In addition to US citizens, certain aliens who are otherwise eligible are eligible to receive Cash Assistance benefits. The alien status of each individual in the AG listed on the application as an alien is to be determined prior to certification/approval. INS documents presented or secured by the applicant/recipient shall be the primary source of verification of alien status. The Systematic Alien Verification for Entitlements (SAVE) system should be used to validate the alien's documents and status whenever possible.
- (b) Description of Eligible Aliens.
  1. Citizens and eligible aliens. The Department shall prohibit participation in the program by any person who is not a resident of the United States and one of the following:
    - (i) A United States citizen;
    - (ii) An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, including certain aliens lawfully present in the United States as a result of the application of the following provisions of the Immigration and Nationality Act:
      - (I) Section 207(c), in effect after March 31, 1980 - Aliens Admitted as Refugees.
      - (II) Section 203(a)(7), in effect prior to April 1, 1980 - Individuals who were Granted Status as Conditional Entrant Refugees.
      - (III) Section 208 - Aliens Granted Political Asylum by the Attorney General.
      - (IV) section 212(d)(5) - Aliens Granted Temporary Parole Status by the Attorney General.

(Rule 1240-1-3-.12, continued)

- (iii) An alien granted lawful temporary resident status pursuant to section 201, 302, or 303 of the Immigration Reform and Control Act of 1986 (PL 99-603) who must be either:
    - (I) A Cuban and Haitian entrant as defined in paragraph (1) or (2)(A) of section 501(e) of PL 96-422, as in effect on April 1, 1983, or
    - (II) An adult assistance applicant for OAA, AB, APTD, or AABD, or
    - (III) An applicant for Cash Assistance who is not a Cuban and Haitian applicant under part 3.(i) above who was adjusted to lawful temporary resident status more than five years prior to application.
  - (iv) All other aliens granted lawful temporary or permanent resident status, pursuant to sections 201, 302, or 303 of the Immigration Reform and Control Act of 1986, are disqualified for five years from the date lawful temporary resident status is granted.
- (c) Aliens who apply for Cash Assistance for the first time must have the income and resources of their sponsor considered in determining their eligibility for assistance. The income and resources of the sponsor shall be considered for a period of three years after the alien's entry into the United States. A sponsor is a person who signed an affidavit or other statement accepted by INS as an agreement to support an alien as a condition of the alien's admission for permanent residence in the United States. The alien is responsible for obtaining the cooperation of his/her sponsor and for providing the information necessary to determine the alien's eligibility. This will include material provided in support of the alien's immigration application. Failure to obtain the sponsor's cooperation or to supply the information will result in denial/closure of the application/case. Aliens who are exempted from this provision are aliens who were: paroled into the United States as refugee; granted political asylum by the Attorney General; admitted as Cuban or Haitian entrants; admitted under Section 203(a)(7) of the Immigration and Nationality Act prior to April 1, 1980; admitted under Section 207(c) of the Act after March 31, 1980; alien children of sponsors or of sponsor's spouse; or recipients of AFDC prior to October 1, 1981, or a former AFDC or Families First recipient who reapplies in the future. Any alien under the sponsorship of a public or private agency/organization is not eligible to receive Cash Assistance within three years of entry into the country unless it is proven (and documented) that the agency is unable to meet their sponsorship obligations to the alien. (This may mean that the agency is no longer in existence.) The alien is required to submit documentary evidence as is available to facilitate this determination. Exception: An alien granted permanent resident status through the legalization process is ineligible for a five year period beginning with the date on which she/he was granted temporary resident status.
- 1. Establishing Income and Resource Amounts. The following steps are necessary in establishing the amount of income and resources which shall be deemed from the sponsor to the alien whether or not these are actually available to the alien.
    - (i) Income
      - (I) Determine the gross earned and unearned income of the sponsor and the sponsor's spouse (the latter's income will be considered even if the marriage occurred after the affidavit of support was executed). If the sponsor, and/or spouse receives Cash Assistance or SSI, no income is to be considered available to the alien.

(Rule 1240-1-3-.12, continued)

- (II) Deduct from the gross earned income (wages, salaries, or net earnings from self employment) 20% of the total of such amounts or \$175.00, whichever is less.
  - (III) Deduct the standard of need for the number of individuals living with the sponsor who are claimed by the sponsor and/or the sponsor's spouse as dependents for Federal personal income tax liability.
  - (IV) Deduct the amount the sponsor and/or his/her spouse pays to individuals outside the home who are claimed as dependents for Federal income tax purposes.
  - (V) Deduct any amount paid by the sponsor and/or his/her spouse for child support or alimony to individuals living outside the home.
  - (VI) The remaining income shall be considered as unearned income to the alien and shall be added to the alien's own income in determining eligibility for assistance.
  - (VII) Follow Cash Assistance budgeting procedures beginning with the Gross Income Standard test.
- (ii) Resources. The provision of considering the income and resources of the sponsor as available to the alien is not waived even though the sponsor may have revoked his/her sponsorship agreement. In those situations where the sponsor has absconded and his/her whereabouts is unknown, the alien(s) would not be eligible for assistance for the period of time for which the sponsor is liable for support, as need could not be established. Income and resources which are deemed to a sponsored alien shall not be considered available to unsponsored members of the alien's family except to the extent the income and resources are actually available. Unsponsored members are not ineligible simply because a sponsored member fails to provide information regarding his/her sponsor. The following are steps to be taken in determining the amount of resources to be deemed from the sponsor to the alien:
- (I) Determine the amount of countable resources of the sponsor and the sponsor's spouse as though the sponsor was applying for Cash Assistance.
  - (II) Deduct \$1500.00 from the total countable resources.
  - (III) The balance of the resources shall be considered available to the alien and added to the alien's own countable resources in determining eligibility.
2. Multiple Sponsorship. When it is determine that an individual has agreed to sponsor multiple families, the amount to be deemed to the eligible families shall be divided equally among the families who are applying for assistance. If only one family applies for Cash Assistance, then the total amount of the sponsor's liability (income and resources) shall be applied to the faintly so applying.
3. Liability for overpayments. Both the sponsor of the alien and the alien shall be jointly and severally liable for any overpayment made to such alien during the three year period following the alien's entry into the United States if such overpayment was due to the sponsor's failure to provide correct information except where it can be established that the sponsor was without fault or where good cause for failure to provide such

(Rule 1240-1-3-.12, continued)

information can be established. The same procedure for handling overpayments shall be applicable to aliens as for any other Families First recipient.

4. Establishing Good Cause - Good cause for failure of the sponsor to provide correct information to the Department includes the following:
  - (i) The Department fails to request information regarding the sponsor's income and resources.
  - (ii) The sponsor has had no direct contact with the Department concerning his/her income and resources, and he/she is unaware of the information provided by the sponsored alien.
  - (iii) Social and/or language barriers preclude the sponsor's understanding and ability to provide the correct information.
  - (iv) Other unusual circumstances exist which indicate the failure to provide correct information is beyond the sponsor's control.

**Authority:** T.C.A. §§4-5-201 et seq., 14-1-105, 14-8-106, 14-27-104, 71-1-105, 71-5-304, 8 USC § 1612(a)(2), 8 USC § 1613(a), 7 C.F.R. 273.8(c)(3), 273.9(b)(4), 273.11(h), 273.11(j), 45 C.F.R. 224.50, 233.50, (a) and (b)(1), 233.51, 233.51 (c)(3), (g)(4) and (5), 233.52, PL 98-369, §2635, PL 104-193 §403(a)-(d), PL 105-185, and §503-508. *Federal Register*, Volume 51, Number 60 (March 28, 1986). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 17, 1982; effective September 16, 1982. Amendment filed March 28, 1983; effective April 27, 1983. Amendment filed January 7, 1985; effective February 6, 1985. Amendment filed August 5, 1986; effective November 29, 1986. Amendment filed May 8, 1987; effective August 29, 1987. Amendment filed February 12, 1988; effective May 29, 1988. Amendment filed April 4, 1997; effective June 18, 1997. Amendment filed September 18, 2001; effective December 2, 2001.

**1240-1-3-.13 INELIGIBLE ALIENS.** All aliens other than those listed in 1240-1-3-.12 are ineligible for Food Stamp and Cash Assistance benefits. They shall not be included in an AG in either program. After five years, those eligible aliens listed in 1240-1-3-.12(1)(b)1.(ii) shall become ineligible for the Food Stamp Program.

**Authority:** T.C.A. §§4-5-202, 71-1-105, 71-3-157, and 71-3-158; PL 104-193; 45 C.F.R. 233.50, 233.51. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed April 4, 1997; effective June 18, 1997.

**1240-1-3-.14 VERIFICATION OF ALIEN STATUS.** Food Stamps and Cash Assistance. Verification of alien status must be presented by the applicant prior to approval/certification.

- (1) When the Department determines that a member of a household requesting Food Stamp benefits is in this country illegally, the Department will report that information to the INS.

**Authority:** T.C.A. §§4-5-202, 71-1-105, 71-3-157, and 71-3-158; PL 104-193; 7 C.F.R. 273.11; 45 C.F.R. 233.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 19, 1982; effective September 16, 1982. Amendment filed August 5, 1986; effective November 29, 1986. Amendment filed May 8, 1987; effective August 29, 1987. Amendment filed February 12, 1988; effective May 29, 1988. Amendment filed April 4, 1997; effective June 18, 1997.

**1240-1-3-.15 SOCIAL SECURITY ENUMERATION REQUIREMENTS.** Enumeration is the procedure by which the Social Security Administration (SSA), in cooperation with the Department, assigns and/or verifies social security numbers (SSN) for AFDC or Food Stamp applicants/recipients. The SSN will be used by the Department only in the administration of the Family Assistance Program.

(Rule 1240-1-3-.15, continued)

(1) Enumeration.

(a) As a condition of eligibility to receive AFDC or Food Stamps each applicant/recipient must:

1. Furnish to the Department a Social Security Account Number (SSN) or numbers if more than one has been issued, or
2. If an individual's account number is unknown or one has not been issued to him, application for an SSN must be filed.

This eligibility requirement applies to the grantee relative, caretaker, second parent and each child in the AFDC aid group and to each Food Stamp household member. A person who does not furnish or apply for a Social Security Number is not eligible to receive AFDC or Food Stamps. If an otherwise eligible A/R does furnish or apply for an SSN he/she may be approved for AFDC or Food Stamp benefits. Food Stamps Only. In the Food Stamp Program, if the household member is unable to provide the SSN prior to certification, he/she will be mandated to apply for one at the DHS county office, even if he/she applies for one directly to the SSA office prior to the Food Stamp application date.

(b) Informing Requirement.

1. Federal law and regulations require that each applicant or recipient be advised of the regulation requiring that he/she furnish a Social Security Number to this Department and how the number is to be used.

(i) Reserved for Future Use.

(ii) Reserved for Future Use.

(iii) Reserved for Future Use.

2. If, after an explanation is given, individual(s) who are required to furnish or apply for a Social Security Number refuse to do so, they shall be excluded from the AFDC aid group and shall be ineligible to participate in the Food Stamp Program.

(2) Mandatory Verification. Social Security Numbers shall be verified in one of the following ways:

(a) A/R with Social Security Card.

1. When an AFDC A/R has a Social Security Card which is viewed by the eligibility worker and there is evidence of a person's age, citizenship and identity in the case folder, the SSN on the person's Social Security Card will be considered a verified Social Security Number and will be entered on the Case Data Form at the time of case action. Observing the Food Stamp household member's Social Security Card or any official document containing the SSN, shall be sufficient for Food Stamp purposes. Once a Social Security Number has been verified it shall be reverified only if the identity of the individual or the SSN becomes questionable. No further action is required of the worker.
2. AFDC Only. Documentary evidence used to establish age, citizenship and identity must be that which is specified in Chapter III of the Welfare Enumeration Manual furnished by the Social Security Administration.

(b) Reserved for Future Use.

(Rule 1240-1-3-.15, continued)

- (c) Reserved for Future Use.
- (d) Reserved for Future Use.
- (e) Applicant/Recipient Applies Directly to SSA Office for Social Security Number Prior to Application Date. For the Food Stamp Program, if, at application the household member informs the worker that he/she does not have an SSN, but applied for one at the SSA Office prior to the application date, the worker shall advise the household member to apply for his/her SSN at the county office. The household must be informed that his/her application for food stamps cannot be approved until he/she either furnishes the SSN or applies for one at the DHS county office. In AFDC, if the worker is informed that application for the SSN was made directly to SSA, the worker shall request proof of such application. Form SSA 5028, Receipt for Application for a Social Security Number, may be used for that purpose. If the A/R is unable to provide such proof and does not wish to delay the approval process, the worker is to inform the A/R that application for the SSN may be made at the DHS county office. The A/R must also be informed that his/her eligibility for AFDC cannot be determined prior to providing the SSN, providing proof of application for one, or applying for one at the DHS county office.
- (f) Bendex and SDX. Matching a reported Social Security Number with information supplied by the Social Security Administration (SSA) such as Bendex SDX computer tapes or printouts is also an acceptable method of verifying an SSN.
- (g) Food Stamp Only.
  - 1. Certification Prior to Receipt of a Social Security Number. Although a Social Security Number reported by the household must be verified, the worker shall not delay certification of an otherwise eligible household solely to validate any member's SSN, even if the 30 day processing period has not expired. As soon as all other steps necessary to certify a household are completed except for verification of an SSN, the worker shall certify the household. If verification of an already reported SSN is not completed at initial certification, it shall be completed at the time of or prior to the household's next recertification. Newly obtained Social Security Numbers shall be verified at recertification by use of Bendex, SDX or by observing the household member's Social Security Card or an official document containing the SSN.
  - 2. Failure to obtain a Social Security Number - Food Stamps Only. If a household member who has applied for an SSN has not received it by the end of the certification period, the worker shall complete another Form SS-5 at recertification. The household member without the SSN will be recertified, and may continue to participate in the Program as long as all other eligibility requirements are satisfied.
  - 3. Refusal to Provide or Apply for a Social Security Number - Food Stamps Only. If the household member refuses to apply for the SSN at the county office or refuses to provide the SSN, the individual(s) shall be excluded from participation until the SSN is provided, or until he/she applies for one at the county office. During the disqualification period, the affected member's income and resources, shall be treated in accordance with Section 1240-1-2-.02 (6) (b) 2. Exclusion from participation applies only to the individual who refuses to provide/apply for the SSN at the county office, and not to the entire household.
- (h) Special Situations - AFDC
  - 1. SSA will not accept an application for a SSN for an unborn child. This application can be submitted only after the child is born.

(Rule 1240-1-3-.15, continued)

- (i) Reserved for Future Use.
- (ii) Reserved for Future Use.
- 2. Reserved for Future Use.
- 3. Reserved for Future Use.

**Authority:** T.C.A. §§14-8-106, 14-27-104, and 14-27-105; 7 C.F.R. 273.6; 45 C.F.R. 306.10, 232.10. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed March 28, 1983; effective April 27, 1983. Amendment filed May 17, 1983; effective June 16, 1983.

#### **1240-1-3-.16 AGE REQUIREMENTS - FOOD STAMPS ONLY.**

- (1) There is no requirement regarding age for Food Stamps eligibility purposes.
- (2) There are other eligibility requirements in which age is related factor.
- (3) At any time that a factor of eligibility is questionable, verification of the client's statement is to be requested.

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

#### **1240-1-3-.17 AGE REQUIREMENTS - AFDC ONLY.**

- (1) To be eligible for AFDC a child must be under 18 years of age. Payment may be made for an otherwise eligible child for the month in which he/she attains age 18 years.
- (2) There is no eligibility requirement regarding the age of the grantee relative or second parent.
  - (a) Attainment of Specific Age. For AFDC eligibility purposes a person is considered to have attained a certain age on the anniversary of his/her birth.
  - (b) Age Proof
    - 1. Reserved for future use.
    - 2. The age of an AFDC child must be proven to fall within the age limit given in the preceding paragraph prior to approval or continuation of benefits.
    - 3. The following are acceptable proofs of age. They are listed in order of priority:
      - (i) Children
        - (I) Birth certificate or birth certificate information b the best proof of age.
        - (II) Delayed birth certificate.
        - (III) Pending receipt of birth certificate information, the following are acceptable documents to establish a child's age:
          - I. Hospital birth records or the records of the physician or midwife in attendance at the child's birth;

(Rule 1240-1-3-.17, continued)

- II. Baptismal certificate;
  - III. School records which show the child's age or date of birth;
  - IV. Insurance policies which show the child's age or date of birth;
  - V. Census Bureau records; or
  - VI. Unaltered family Bible records.
- (IV) When the appearance of a child for whom AFDC is requested obviously corroborates an A/R's statement that the child is under 18 years of age, assistance may be granted pending receipt of evidence of the month and year of the child's birth when other proof establishing relationship is available.
- (ii) Adults. There is no requirement that the age of the grantee relative, second parent, caretaker, legal guardian, or consecrator be proved.
- (c) Evaluation of Evidence of Age. When any evidence other than a birth certificate is used to establish age, the validity of the evidence must be evaluated. Conflicts in data concerning age should be resolved.

**Authority:** T.C.A. §§14-3-102, 14-8-103, 14-8-106, and 14-27-104; PL 97-35. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed December 3, 1980; effective January 19, 1981. Repeal and new rule filed December 10, 1981; effective January 25, 1982.

#### **1240-1-3-.18 SCHOOL ATTENDANCE - FOOD STAMPS ONLY.**

- (1) There is no eligibility requirement regarding school attendance for Food Stamp purposes.
- (2) There is a requirement that in order to be considered a student a person must attend school at least half-time and that such students between the ages of 18 and 60 must meet the criteria as specified in rule 1240-1-2-.02 (6).

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed December 3, 1980; effective January 19, 1981.

#### **1240-1-3-.19 SCHOOL ATTENDANCE - AFDC ONLY.**

- (1) A child under age 18 who is otherwise eligible may receive AFDC regardless of school attendance. However, school attendance is a factor in certain WIN registration requirements and in the disregard of a child's earned income.
  - (a) A child is considered to meet the school attendance requirements for WIN and for income disregard purposes, respectively, under the following circumstances:
    - 1. WIN Exemption. A child age 16 to 18, unless otherwise exempt, must register for WIN unless he/she is enrolled in and physically attending full-time elementary or secondary school or an equivalent level of vocational or technical training.
    - 2. Earned Income Exclusions/Disregards for Student Child Recipients.

(Rule 1240-1-3-.19, continued)

- (i) Exclusion of Earnings for a Full-Time Student. Earnings (other than JTPA) of a child recipient who is a full-time student are excluded for the gross income standard test and grant computations up to six months each calendar year.
- (ii) Disregard of Earnings for a Full-Time Student, or for a Part-Time Student Not Employed Full-Time. If a child's gross earnings are within the gross income standard, the earnings of a child recipient who is a full-time student after the six month period, or a part-time student not employed full-time, are disregarded.

For a part-time student employed full-time, or for a child recipient without student status, the applicable earned income disregards (\$30 and/or 1/3, work allowance, child/dependent care) are applied.

For purposes of applying these exclusions/disregards, a student is a child recipient attending a school, college, university, or a course in vocational or technical training designed to prepare him/her for gainful employment and includes participation in the Job Corps Program under J.T.P.A.

- (b) Verification. For any child age 16 to 18, and for a child of any age who is employed, certification from the school that the child is attending school full-time or part-time for the curriculum in which he/she is enrolled is required. This certification is to be obtained at application and at each redetermination of eligibility and shall be considered verification of part/full time student status. Clients are to be required to report any change in a child's school attendance (e.g. a child drops out of school).
- (c) A student retains student status during official school vacations and breaks if he/she met requirements prior to the vacation/break and intends to return to school after the vacation/break.
- (d) A child who is receiving elementary/secondary or equivalent level vocational/technical instruction from a homebound teacher meets student requirements. A homebound teacher is a certified teacher employed by the school in which the child is enrolled.
- (e) If application is made for a child 16 to 18 years of age during a school term and the child is not enrolled and attending school regularly, he/she must register for WIN prior to being added to the aid group, unless otherwise exempt.
- (f) Participation in correspondence courses, other courses of home study, apprenticeships, and rehabilitation programs other than academic or instructional, vocational/technical training, does not qualify a child as a student.

**Authority:** T.C.A. §§14-8-104, 14-8-106, and 14-27-104; 7 C.F.R. 273.8; 45 C.F.R. 233.20; PL 98-369 §2642.  
**Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982. Amendment filed July 20, 1982; effective October 13, 1982. Amendment filed January 7, 1985; effective February 6, 1985.

#### **1240-1-3-.20 RELATIONSHIP REQUIREMENTS AFDC ONLY.**

- (1) To be eligible for AFDC, a child must live with a relative (or relatives) within the following degrees of relationship:
  - (a) Father, mother, brother, sister, uncle, aunt, first cousin, nephew, or niece. This includes relationships to persons of the preceding generations as denoted by prefixes of grand, great or great-great and those of half blood;

(Rule 1240-1-3-.20, continued)

- (b) Stepfather, stepmother, stepbrother and stepsister;
  - (c) Legally adoptive parents of the child or of the child's parents, the natural and other legally adopted children of such persons and the blood relatives of such persons, including first cousins, nephews and nieces; and termination of parental rights does not affect a child's relationship to his natural extended family. However, adoption of a child or his/her parent establishes a legal relationship to a new set of relatives -- both immediate and extended families. The adopted relatives within specified degrees of relationship qualify to receive AFDC for an adopted child, but blood relatives of the adopted child (or the child's parent) cannot receive AFDC.
  - (d) Legal spouses of any of the persons named in the three above groups. This applies even though the marriage may have been terminated by death or divorce.
- (2) In determining whether any of these relationships exist, for the purpose of either granting or denying assistance, only the necessary blood relationship must be established.

**Authority:** T.C.A. §14-8-106; 45 C.F.R. 244.50 and C.F.R. 233.60 (c)(i)(iv)(A); 42 USC §606 (a). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment to rule filed January 30, 1985; effective March 1, 1985.

#### **1240-1-3-.21 EVIDENCE REGARDING RELATIONSHIP.**

- (1) In order to receive AFDC for a child, it must be established that the applicant/grantee relative is within one of the specified degrees of relationship to the child. Documentary evidence of relationship is required except as specified in (i) below. The following sources of verification are listed in order of priority:
- (a) Birth Certificates or copies of birth certificates or Bureau of Vital Statistics records which establish relationship of a child to his parents; and in instances when applicant/grantee relative is other than the parent, which establish relationship of the child's parent to the relative requesting AFDC for the child. Adoption and legitimization records also establish relationship of the child to his parent(s).
  - (b) Census Bureau records listing the children belonging to a particular family.
  - (c) Statements of physicians or midwives who attended the birth and remember the names of the people involved.
  - (d) Family Bible or other family records which are written in ink and have not been altered, wills and deeds to property naming individuals and specifying relationships.
  - (e) Social agency records, including those of DHS, which are at least one year old and which consistently specify the degree of relationship of the applicant/grantee relative to the child.
  - (f) Juvenile Court, other court and hospital records.
  - (g) Insurance policies at least one year old in which relationship of the child to the applicant/grantee relative is specified.
  - (h) Copies of income tax returns listing the child as a specific relative and school records which specify relationship.

(Rule 1240-1-3-.21, continued)

- (i) An award letter or other acceptable evidence from SSA that RSDI payments have been awarded to a child based on his/her parent's account.
- (j) Trust documents, and other such instruments, military or veterans records.
- (k) INS records, Indian Agency records, other government or local agency records, newspaper records, and local histories.
- (1) In the absence of any documentary proof of relationship, the relative's statement as to the reason(s) there is no proof, plus his/her detailed statement as to how he/she is related to the child, plus at least one notarized statement from a person in a position to know the facts of the situation in which he/she describes the relationship and how he/she knows it to be true will be acceptable. Copies of marriage and divorce records, legitimization records or statements from court clerks concerning marriages and divorces or legitimization will be required to establish relationship when the relationship is through the paternal line.

**Authority:** T.C.A. §§14-1-105 and 14-8-106; 45 C.F.R. 224.50 and 233.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985.

#### **1240-1-3-.22 RESERVED FOR FUTURE USE.**

**Authority:** T.C.A. §§14-1-105 and 14-8-106; 45 C.F.R. 224.50 and 233.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985.

#### **1240-1-3-.23 LIVING IN THE RELATIVE HOME.**

- (1) To be eligible for AFDC a child must live in a place of residence maintained by the relative as his or her own home and the home of the child. A home is considered to be a family setting maintained (or in the process of being established) by the relative who requests AFDC for a child in his/her care and control. Usually the child continuously shares the same household with the applicant relative. A child is considered to be living in the relative's home as long as the applicant/relative continues to provide care and control of the child even though circumstances may require temporary absence of either the child or the relative from the customary family setting.
- (2) The EW will contact rental offices, landlords, day care centers, and public schools to verify that the children in the AFDC filing unit actually live with the individual making application. The following additional sources of evidence will be used if the child is an infant or extenuating circumstances result in no or questionable information being available through the above sources:
  - (a) Personal contact with neighbors as to whether to their own knowledge the child lives in the home.
  - (b) Personal contact with relatives as to where the child lives.
  - (c) Physician, clinic, public health records.
  - (d) Worker's observations.

**Authority:** T.C.A. §§14-1-105 and 14-8-106; 45 C.F.R. 224.50 and 233.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985, (Formerly 1240-1-3-.22).

**1240-1-3-.24 CARE AND CONTROL.**

- (1) A relative has care and control of a child if he/she is providing day to day care, support, supervision and has major responsibility for these parental obligations.
- (2) Reserved for Future Use.

**Authority:** T.C.A. §§14-1-105 and 14-88-106; 45 C.F.R. 224.50 and 233.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985.

**1240-1-3-.25 TEMPORARY ABSENCE.**

- (1) Temporary absence of the child or relative is one of short duration with specific intentions of returning on or about a specific date. Any absence of either the child or the grantee relative which will extend beyond a 6 month period is studied carefully to determine whether this relative does, in fact, retain the care, supervision and control of this child for a major portion of each month.
  - (a) Assistance may be granted to a relative for a child who is temporarily out of the home when, for example, the child:
    1. Visits.
    2. Is in a hospital temporarily for treatment.
    3. Attends summer camp.
    4. Attends an accredited or approved school away from home for the purpose of academic education or vocational or technical training because school facilities to meet this child's special needs are not available in his/her own community. It must be documented that the child does have special needs which cannot be met in his/her home community.
    5. Attends a college or university or other vocational or technical school on a scholarship or other grant that is not available in his/her own community and his/her parents or other relatives retain responsibility for his/her care and control.
    6. Is in a psychiatric facility and has not been placed there by a Court Order and is only temporarily out of the home.
    7. Is in a maternity home.
  - (b) Assistance may continue to be paid to a relative who is temporarily out of the home when, for example, the relative:
    1. Visits.
    2. Is providing some care for a spouse or child who is hospitalized.
    3. Is attending a specialized training facility not available in his/her home community (as through the auspices of Services for the Blind or Division of Vocational Rehabilitation).
    4. Is hospitalized for acute illness or injury, is in a maternity home or convalescent care facility for the purpose of obtaining special care not available in the home.

(Rule 1240-1-3-.25, continued)

5. Is temporarily absent for the purpose of setting up a home to which he/she will remove his/her children.
  6. Enters a psychiatric facility and has not been placed there by Court Order and is only temporarily absent from the home for a period of time not to exceed 6 months.
- (2) When it cannot be established that the child lives in the home of the applicant/grantee relative or when the applicant/grantee relative states that the child is temporarily absent, it must be established that the applicant/grantee relative does, in fact, retain full responsibility for the child's care and control. This determination will be based on the following information:
- (a) The whereabouts of the child and the date of departure and the expected date of return to the home.
  - (b) The reason for the child's absence and the person responsible for the plan.
  - (c) The responsibility the applicant/grantee relative has for the child while he/she is away from home and,
  - (d) Actual arrangements being made for the child's return to the home.

**Authority:** T.C.A. §§14-1-105 and 14-8-106; 45 C.F.R. 233.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985.

#### **1240-1-3-.26 ELIGIBILITY OF MATERNITY HOME RESIDENTS.**

- (1) Eligibility for a person residing in a maternity home is determined as though the person were currently living in her own (or foster) home. That is, a period of time spent in a maternity home is defined as a temporary absence from one's usual home and eligibility is established based on the circumstances which exist in that usual home.
- (2) Applications from Maternity Home Residents.
  - (a) Applications from women who are entering (or plan to enter) a maternity home are accepted and processed in the county of usual residence, i.e., the person's "home county."
  - (b) Applications from women who are in a maternity home are accepted and processed in the county where the maternity home is located.
  - (c) In either (a) or (b) the application county requests information from the other county as necessary to complete the eligibility determination. The county from which information is requested, obtains and provides the required information promptly.
- (3) Eligibility for Applicants in a Maternity Home.
  - (a) A maternity home resident must meet all technical and financial AFDC eligibility requirements as any other AFDC applicant (see (5) below for special provisions for foster care children).
  - (b) A pregnant woman may request AFDC for herself only (as a pregnant woman) or she may request assistant for herself and her dependent children in the home.
    1. *As a pregnant woman:*

(Rule 1240-1-3-.26, continued)

- (i) she must have reached her 6th month of pregnancy and she may qualify for Medicaid in her first and second trimester.
  - (ii) she must meet all eligibility requirements as though the unborn were born and living with her and,
  - (iii) the income of a spouse in the home must be considered and/or the income of a parent/legal guardian of a minor must be deemed to the minor pregnant woman. (See exception for SSI recipients.)
  - (iv) a minor must not be receiving AFDC as a dependent child with her siblings in the home.
- 2. *As the applicant relative of dependent children in the home:*
  - (i) pregnancy does not have to be verified (when an applicant relative has children for whom AFDC is requested, her pregnancy is not an issue).
  - (ii) the dependent child(ren) in the home must meet all eligibility requirements and she must meet all requirements as caretaker relative.
  - (iii) the income of a spouse in the home will be considered and the income of a parent/legal guardian of a minor will be deemed to the minor applicant. (See exception for SSI recipients.)
  - (iv) the applicant must not be receiving AFDC as a dependent child with her siblings in the home. (See rule 1240-1-2-.03 (10)).
- (c) If the home situation is being dissolved, the current home situation of the maternity home resident is considered in determining her eligibility.
- (4) Eligibility for Recipients Residing in or Entering a Maternity Home.
  - (a) No change in an AFDC grant or filing unit is made when a recipient is residing in or entering a maternity home.
  - (b) An alternate payee will be named to receive the grant if necessary.
- (5) Special Provisions for Foster Care Recipients.
  - (a) A person who enters a maternity home from a foster home may apply for and receive AFDC as any other pregnant woman or caretaker relative whether foster care payments are made through Title IV-E or some other source.
  - (b) The foster care payment as well as payment made to the maternity home by DHS or other child caring/placing agency are disregarded in determining the maternity home resident's eligibility.
  - (c) Any income the maternity home resident has in her own right will be considered available first to her own foster boarding home costs.
  - (d) AFDC status determined for the purposes of IV-E eligibility will remain unchanged during the foster care recipient's temporary residence in a maternity home.
  - (e) This department having custody is not a factor in determining her eligibility.

(Rule 1240-1-3-.26, continued)

- (f) If the foster care child enters the maternity home from a foster home, the circumstances of the home from which the child was removed is disregarded. This is because the "home" situation has been dissolved, at least for the present time, for that child.
- (g) If the child enters the maternity home directly from her own home and that home situation is being dissolved, the circumstances in her relative's home, i.e., income, resources, and assistance unit policy is disregarded.

**Authority:** T.C.A. §§14-1-105 and 14-8-106; 45 C.F.R. 233.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed September 19, 1985; effective December 14, 1985.

#### **1240-1-3-.27 INDIVIDUALS NOT ELIGIBLE TO RECEIVE AFDC.**

- (1) Those persons who are inmates of any institution. An inmate is a person living in an institution who is not free to leave on his/her volition or has been committed.
- (2) Those persons who are in facilities owned and/or operated by the Correction Department or in any correction foster home not approved by DHS.
- (3) An A/R cannot receive AFDC for a dependent child when the child is residing in a child caring institution or other child caring facility (except day care). However, the child himself/herself may be eligible for AFDC-foster care payments or SSI benefits. A child born to a mother who is herself in foster care may receive regular AFDC payments if all eligibility requirements are met and the child is actually living in the home with the mother.

**Authority:** T.C.A. §14-3-102; 45 C.F.R. 233.10, 233.90. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.28 DEPRIVATION OF PARENTAL SUPPORT/CARE - AFDC ONLY.** A child who is otherwise eligible for AFDC must be found both to be in need by public assistance standards and to be deprived of parental support and/or care. Deprivation must be due to any one of the following:

- (1) Death of one or both parents;
- (2) Incapacity of a parent;
- (3) Continued absence from the home in which the child lives of one or both parents.

**Authority:** T.C.A. §§14-3-102, 14-8-106; 45 C.F.R. 233.10, 233.90 (a)(1). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed December 17, 1982; effective March 16, 1983. Amendment filed August 23, 1983; effective September 22, 1983.

**1240-1-3-.29 DEATH OF A PARENT.** A child may be found to be deprived of parental support/care by reason of the documented death of one or both parents.

**Authority:** T.C.A. §§14-8-102, 14-8-106, 14-8-122, and 14-8-124; 45 C.F.R. 232, 233.90(c)(1)(ii). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.

**1240-1-3-.30 INCAPACITY OF A PARENT.**

- (1) A child may be considered to be deprived of parental support/care when at least one of two parents living in the home is incapacitated. Incapacity is deemed to exist when one parent has a physical or mental defect, illness, or impairment. The defect, illness, or impairment must:
  - (a) be supported by competent medical testimony;
  - (b) be of such a debilitating nature as to reduce substantially, or eliminate the parent's ability to support or care for the otherwise eligible child; and
  - (c) be expected to last for a period of at least 30 days.

NOTE: In making the determination of ability to support the Department of Human Services shall take into account the limited employment opportunities for handicapped individuals

- (2) Making a Determination of Incapacity. Incapacity shall be determined as follows:
  - (a) Current receipt by the parent of RSDI or SSI benefits based upon disability or blindness is acceptable proof of incapacity for AFDC purposes. However, eligibility for RSDI or SSI benefits is not necessary to prove incapacity. Incapacity for AFDC purposes does not require that a defect, illness, or impairment be as severe, or last as long, as required for establishing disability or blindness for RSDI or SSI purposes.
  - (b) Obvious incapacity can be approved in the county office for a period of up to 12 months;
  - (c) Receipt by the incapacitated person of VA 100% disability benefits based on his/her disability;
  - (d) Receipt by the incapacitated person of Black Lung benefits based on his/her own condition; or
  - (e) All other claims of incapacity must be forwarded to the Medical Evaluation Unit (MEU).
- (3) Review/Redetermination of Incapacity - Six-month Review/Redetermination. The RSDI/SSI disability status must be reverified at each six month case review. When the parent's RSDI/SSI payment is terminated and the parent claims continued AFDC eligibility based on incapacity, it will be necessary to establish incapacity through the Medical Evaluation Unit (MEU). Terminated RSDI/SSI individuals may continue eligible as incapacitated while the necessary information is being secured and submitted to the MEU. If the client fails to cooperate without good cause or refuses to cooperate, the case must be closed.
- (4) Periods of Incapacity for AFDC.
  - (a) The period of incapacity established by the Medical Evaluation Unit (MEU) is subsequent to the period of incapacity approved by the county. Verification of continued incapacity must be made at the end of the MEU approval period if continued incapacity is claimed.
  - (b) On applications/reapplications denied by the MEU but approved on the local level, the MEU's decision of nonapproval is effective at the end of the approval period made by the county. The case will then be closed by the county office without being resubmitted to the MEU unless additional new medical information is available.
  - (c) For active incapacity cases denied by the MEU, the case will be closed as soon as adverse notification procedures permit.

(Rule 1240-1-3-.30, continued)

- (d) If there is any indication the client is no longer incapacitated, the complete medical file will be resubmitted to the MEU with current medical-social information including the facts which indicate that incapacity no longer exists.

**Authority:** T.C.A. §§71-3-102 and 71 3-106; 45 C.F.R. 232.11; 232.12, and 233.90(c)(1)(iv). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed October 28, 1991; effective January 29, 1992. Repeal and new rule filed January 31, 1995; effective April 15, 1995.

#### **1240-1-3-.31 ABSENCE.**

- (1) Eligibility Requirements.
  - (a) To be eligible for AFDC, a child must be determined to be deprived of parental support/care due to death, incapacity, or absence of a parent or unemployment.
  - (b) Reserved for future use.
  - (c) As a condition of his/her own eligibility to be included in an AFDC aid group, the remaining parent or other applicant/grantee relative must give required information about the absent parent(s) and cooperate with the IV-D agency as necessary.
  - (d) If the facts establish that the allegedly absent parent has a separate living arrangement from the child(ren) for whom AFDC is requested, absence can be considered to exist.
- (2) Absence from the home may exist due to any of the following:
  - (a) divorce of natural parents and only one or no parent remains in the home with the child (ren);
  - (b) separation of parents;
  - (c) desertion of one or both parents;
  - (d) imprisonment of one or both parents;
  - (a) institutionalization of one or both parents;
  - (f) a parent(s) is serving a court-imposed sentence of unpaid public service while residing at home;
  - (g) single parent adoptions.
- (3) When Absence Exists.
  - (a) Absence exists if any one of the parental functions (maintenance, physical care, or guidance to the child) is interrupted because the parent is outside the home. If the parent is living outside the child's home, "absence" will be presumed, unless there are unusual circumstances which indicate that the parent's ability to provide maintenance, physical care, and guidance all remain uninterrupted. The parent may be absent for any reason, and may have left only recently or sometime previously. The reason for the absence does not affect the family's eligibility for AFDC, unless the parent is absent due to service in uniformed services. The absent parent may still maintain a relationship with the dependent child and is encouraged to do so.
  - (b) "Absence" Due to Court-Imposed Unpaid Public Service

(Rule 1240-1-3-.31, continued)

1. A child is to be considered deprived of parental support and/or care by reason of continued absence from the home when:
  - (i) a parent has been convicted of an offense and is under sentence of a court; and
  - (ii) the sentence requires and the parent is performing unpaid public work or community service during working hours which totally precludes gainful employment; and
  - (iii) the parent is permitted by the court to live at home while serving the sentence.
2. Reserved for future use.
3. Real and personal property belonging to the convicted parent is to be treated in accordance with 1240-1-4-.09 (2).
4. Any unearned income except SSI belonging to the convicted parent and excess above his/her own needs will be counted as available to the family.
5. The convicted offender living at home and performing unpaid work:
  - (i) cannot be included in the aid group;
  - (ii) cannot be the payee;
  - (iii) is not an AFDC applicant/recipient so is not required to register for WIN;
  - (iv) must not be treated as an absent parent in relation to child support requirements.
- (c) Alleged Parent Defined. The natural father of a child born out of wedlock whose paternity has not been judicially established.
  1. The mother or other relative applying for assistance for such a child is required to provide all the facts known to establish the identity of the father and child unless good cause exists for not doing so. The relative is also advised of services available to assist in such identification process.
  2. Reserved for future use.
- (d) In single parent adoptions, absence of one parent exists because there is only one parent. There are no child support requirements on these cases
- (e) Stepparent Cases. Deprivation on basis of absence exists even though the parent who remains in the home has remarried and the stepparent is also in the home.
  1. Reserved for future use.
  2. To determine whether such a child is in need according to Department standards, the income of the stepparent living in the home will be deemed to be available to the stepchildren. In addition, the income of a stepparent in the military service and outstationed will be deemed to the stepchildren.
- (f) Active Duty in Uniformed Service of the US (Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Administration, and US Public Health Service). Absence does

(Rule 1240-1-3-.31, continued)

not exist when a parent is away from the home in which a child is living (for whom AFDC is requested/received) solely by reason of the parent's performance of active duty in a uniformed service of the US. Likewise a stepparent in the uniformed service is considered as "in the home" for purposes of deeming income to the stepchildren. The A/R will be required to apply to have an allotment sent directly to him/her or to the IV-D agency if a grant is approved.

- (4) Duration of Absence. The absence does not have to exist for a specific period of time. However, when it is evident that the absence will terminate before the application can be processed and payment made, the condition of continued absence is not met.
- (5) Verification/Documentation. The fact of continued absence (when absence is the base for deprivation of support/care) must be considered and substantiated at each determination/redetermination of eligibility.

**Authority:** T.C.A. §§71-1-105(12); 45 C.F.R. 233.90, 233.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed January 30, 1984; effective March 1, 1985. Amendment filed January 31, 1995; effective May 31, 1995.

#### **1240-1-3-.32 CHILD SUPPORT - AFDC ONLY.**

- (1) Introduction. The Office of Child Support Services is the agency with responsibility for the administration of the Title IV-D requirements to locate absent parents, establish paternity, collect support payments, and recover any overpayments due to the family's retention of assigned support.
- (2) Support is defined as court-ordered or voluntary money payments made to, or on behalf of, any member of an AFDC assistance unit by an absent parent (legally recognized parent, or natural parent who admits paternity). Such support is assigned to the state, pursuant to state law, as a condition of AFDC eligibility. Spousal support is also assigned if it was ordered at the time of the child support order by a court.
- (3) Conditions of AFDC Eligibility. As conditions of AFDC eligibility for him/herself, each applicant for or recipient of aid on behalf of a child must:
  - (a) Assign to the state any rights to support from any other person that the A/R may have in behalf of any member of the aid group. This assignment includes past support rights which have accrued at the time of such assignment. There is no waiver of the assignment requirement.
  - (b) Cooperate with the state in:
    1. Identifying and locating the absent parent(s);
    2. Establishing paternity if necessary;
    3. Obtaining support payments.
  - (c) As an element of cooperation, turn over to the state any support paid directly to the applicant/recipient, whether voluntary or court-ordered.
- (4) Summary of the Treatment of Support Payments
  - (a) When an assignment is in effect on an AFDC case, any support paid to or on behalf of the aid group members must go to the state to be disbursed by the IV-D agency in accordance with federal regulations.

(Rule 1240-1-3-.32, continued)

- (b) Support may or may not be court ordered. Prior to the establishment of an order of support, the actual monthly amount of voluntary support, less the child support bonus, is tested against the grant or appropriate need standard to (re)determine eligibility. In cases of court ordered support, the court ordered amount, less the child support bonus, is tested against the appropriate need standard at the time of application, at redeterminations requested by IV-D Fiscal Services, or as required due to client retained support. Any excess amount paid over the court ordered amount of support by the absent parent is used by IV-D to reimburse arrearages owed the state and federal governments for payment of the AFDC grant. If there are no arrearages, the overage is credited to "futures" to be used for reimbursement purposes as needed.
  - (c) If the support payment, less the child support bonus, is insufficient to meet the family's needs by DHS grant standards, the family receives the full AFDC grant to which it is entitled, disregarding the support. The support payment is used to reimburse state and federal AFDC funds expended on the family.
  - (d) If the support payments do meet the needs of the family (or children), the AFDC grant must be terminated.
- (5) AFDC Cases Subject to Support Procedures. Any AFDC assistance case in which eligibility is based upon absence of a parent is subject to child support requirements and will be referred to the IV-D agency upon approval of the AFDC grant and at the time of an addition of a child(ren) to the aid group. Grants which include only a pregnant woman who would be eligible for AFDC if the child was born must also be referred to IV-D. The following types of cases are exempt from support processes and are not referred to the IV-D agency even where eligibility is based on absence:
- (a) "Caretaker Only" cases in which the needy child is an SSI recipient.
  - (b) "Medicaid Only" recipient/cases for dependent children age 18-21 years old.
  - (c) Absence due to court ordered public service in lieu of incarceration.
  - (d) Single parent adoptions.
- (6) Reserved for future use.

**Authority:** T.C.A. §§14-1-105 and 14-8-106; 45 C.F.R. 231.11, 232.12, and 302.51. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed September 19, 1985; effective December 14, 1985.

### **1240-1-3-.33 REFERRALS BY IV-A TO THE IV-D AGENCY.**

- (1) Referrals by IV-A to the IV-D Agency.
  - (a) AFDC: Upon approval of AFDC for a case which is subject to child support procedures, pertinent information will be referred to the IV-D agency where it will be used in locating the absent parent(s), establishing paternity, obtaining and enforcing support orders, and/or redirecting support payments to this department.
  - (b) Reserved for future use.

**Authority:** T.C.A. §§14-8-104 and 14-8-106; 45 C.F.R. 232.13, 235.70, 302.31(a)(3)(ii), 303.80(b)(c)(d)(e)(f), and 233.90(b)(4). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.

**1240-1-3-.34 ASSIGNMENT OF SUPPORT RIGHTS - AFDC ONLY.** As a condition of his/her eligibility, the AFDC applicant/recipient must assign to the state any rights to support on behalf of all members of the AFDC aid group. Tennessee law specifies that receipt of AFDC in fact constitutes an automatic assignment of ongoing and accrued support rights. The assignment requirement cannot be waived, thus the IV-D sanctions must be applied to the case if a client refuses to assign support rights. A client may choose not to request assistance for a child for whom he/she does not wish to assign support rights. Sanctions are not applicable as long as the client assigns support rights on behalf of all children included in the aid group and cooperates as previously specified.

- (1) Notice to the A/R of the Assignment Requirement. A written and verbal explanation of this eligibility requirement and the sanctions for refusal must be given to each AFDC applicant to whom the requirement applies. The client's signature on Form HS-0755 serves as acknowledgment that he/she understands that support rights on behalf of all members of the aid group are automatically assigned to the state if assistance is granted.
- (2) Refusal to Assign Support Rights.
  - (a) If an applicant/recipient refuses to assign support rights, his/her signature on Refusal of Assignment of Support Payments is required and sanctions will be applied.
  - (b) Refusals to assign are reported to the IV-D agency.
  - (c) Reserved for future use.
  - (d) Although the IV-D agency cannot take IV-D support action on a case involving refusal to assign, the state may still attempt to collect child support as reimbursement for the AFDC grant under existing state laws.

**Authority:** T.C.A.. §§14-8-106 and 14-8-124; 45 C.F.R. 224.50 and 232.11. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.

**1240-1-3-.35 COOPERATION IN CHILD SUPPORT ACTIVITIES.** Cooperation in obtaining support and establishing paternity is a condition of AFDC eligibility for each applicant/recipient unless good cause for refusal to cooperate is established in accordance with criteria set out below. The determination of whether a client has refused to cooperate and when good cause exists for a waiver of the cooperation requirement is an eligibility function.

- (1) Cooperation Requirements. Each A/R is required to cooperate by engaging in any activity or providing information necessary for child support enforcement, including but not limited to the following :
  - (a) Assisting in identifying and locating the absent parent of each child in the aid group;
  - (b) Assisting in the establishment of paternity for each AFDC child for whom this service is appropriate;
  - (c) Assisting in obtaining support for each member of the aid group;
  - (d) Appearing for scheduled interviews as necessary to provide relevant verbal or written information or documentary evidence;
  - (e) Appearing as a witness in court or other hearings or proceedings if necessary;
  - (f) Providing information, or attesting to lack of information, under penalty of perjury;

(Rule 1240-1-3-.35, continued)

- (g) After assigning support rights, turning over to DHS any and all support payments which are covered by the assignment and are received directly by the A/R either from the absent parent or through a court or other third party.
- (2) Notice to the Applicant/Recipient. At application, a written and verbal explanation of the requirement for cooperation with child support activities and the penalties for refusal to cooperate will be provided in addition to information regarding the client's right to claim good cause for refusal to cooperate. If the client claims good cause for non-cooperation or requests further clarification, he/she shall be given a further written notice describing the circumstances and evidence necessary for a good cause determination.
  - (a) Acknowledge of Notice.
    - 1. The client's signature acknowledges that he/she understands:
      - (i) that support rights are assigned to the state;
      - (ii) any support payments received by the client after approval of the AFDC grant must be turned over to DHS; and
      - (iii) how to forward such payments to DHS.
    - 2. The good cause notice will be completed, signed, and dated only if the client actually claims good cause.
- (3) Refusal to Cooperate.
  - (a) It is the responsibility of the Department to determine if a client has failed or refused to cooperate.
  - (b) Reasonable judgment will be exercised in determining whether there has been willful non-cooperation or extenuating circumstances.
  - (c) If the client has refused to cooperate, the Department will apply the sanctions to the case (unless there is good cause for the lack of cooperation) and notify the client of the action.
  - (d) Failure to cooperate (without good cause) and the resultant application of sanctions to the case do not preclude support actions on the case by the IV-D agency as long as the assignment is in effect.

**Authority:** T.C.A. §§14-8-106 and 14-8-124; 45 C.F.R. 232.12, 232.41, and 235.70. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.

**1240-1-3-.36 GOOD CAUSE FOR REFUSAL TO COOPERATE.** A client claiming good cause for refusal to cooperate has the burden of establishing the existence of a good cause circumstance.

- (1) Client Requirements. To establish good cause, the client will be required to:
  - (a) Specify the circumstances which he/she believes provide sufficient good cause for non-cooperation;
  - (b) Substantiate the good cause circumstances; and

(Rule 1240-1-3-.36, continued)

- (c) If requested, provide sufficient information to permit an investigation.
- (2) Good Cause Circumstances. Only when one of the following circumstances is substantiated will it be determined that the client's cooperation is against the best interests of the child and there is good cause for refusal to cooperate:
  - (a) The client's cooperation is reasonably anticipated to result in physical or serious emotional harm to the child for whom support is to be sought; or
  - (b) The client's cooperation is reasonably anticipated to result in physical or serious emotional harm of such nature or degree that it reduces such person's capacity to provide adequate care for the child; or
  - (c) Proceedings to establish paternity or collect support in the particular case would be detrimental to the child because the child was conceived as a result of incest or forcible rape; or
  - (d) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction, or
  - (e) The client is currently (for a period of not more than 3 months) being assisted by a public or licensed private social agency to decide whether to keep the child or relinquish for adoption.
- (3) Proof of Good Cause Claims.
  - (a) The decision of good cause will be based upon evidence supplied by the client within 20 days after the claim is made. Only in exceptional situations will the Department grant a client's request for an additional period of time. Otherwise, the claim will be denied.
  - (b) The determination may be based upon an investigation by the Department in certain limited circumstances: in cases of anticipated physical harm when the A/R states there is no documentary evidence; and in cases where the evidence submitted by the A/R is questionable and so requires further verification and/or investigation.
  - (c) Corroborative Evidence.
    - 1. Documentary Evidence. Evidence submitted by the client will be carefully evaluated to determine whether it actually verifies the claim. The following types of evidence may be used to substantiate a good cause claim:
      - (i) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;
      - (ii) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
      - (iii) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the absent parent might inflict physical or emotional harm on the child or caretaker relative if cooperation is required;
      - (iv) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought, or written statements from a mental health professional indicating a

(Rule 1240-1-3-.36, continued)

- diagnosis or prognosis concerning the emotional health of the caretaker relative or the child;
  - (v) A written statement from a public or licensed private social agency that the A/R is being assisted by the agency to resolve the issue of whether to keep the child or relinquish for adoption; and
  - (vi) Notarized statements from individuals other than the A/R with knowledge of the circumstances on which the good cause claim is based.
2. Emotional Harm Documentation. For every good cause determination based in whole or in part upon anticipated emotional harm to the child or caretaker, the following points will be considered:
    - (i) The present emotional state of the individual;
    - (ii) The emotional health history of the individual;
    - (iii) The intensity and probable duration of the emotional impairment;
    - (iv) The degree of cooperation to be required; and
    - (v) The extent to which the child will be involved in the paternity establishment or support enforcement activity.
  3. Securing Documents. Upon request, the Department will advise the A/R how to obtain the necessary documents and will provide reasonable assistance in obtaining specific documents which the client is not able to obtain.
  4. Additional Information Required. If an examination of the evidence indicates that additional information is necessary in order to make a decision, the Department will promptly notify the client, specifying the type of document which is needed.
  5. Documentary Evidence Not Available - Physical Harm.
    - (i) An investigation will be conducted when a good cause claim of anticipated physical harm appears credible without substantiating evidence and such evidence is not available.
    - (ii) Reserved for future use.
  6. Documentary Evidence Insufficient for Determination. If the A/R's statement and the evidence submitted do not provide a sufficient basis for making a decision, the Department may further verify the claim and, where necessary, conduct an investigation. The investigation may include contact of the absent parent if necessary for a determination. Prior to such contact, however, the client will be notified so that he/she may:
    - (i) Present additional corroborative evidence to make the contact unnecessary;
    - (ii) Withdraw the application for assistance or have the case closed; or
    - (iii) Have the good cause claim denied.

(Rule 1240-1-3-.36, continued)

- (4) Granting or Continuation of Assistance During Good Cause Determination. If the client has complied with the requirements for providing corroborative evidence, assistance shall not be denied, delayed, or discontinued pending the determination of whether or not good cause for refusal to cooperate exists.
- (5) Decisions on Good Cause Claims.
  - (a) Time Standards for Processing Claim.
    - 1. A final decision on each good cause claim must be made within 45 days of the date the claim is made.
    - 2. The time standard may be exceeded only if:
      - (i) information required to verify and/or investigate the claim could not be obtained within the time standard; or
      - (ii) the client was granted additional time to secure evidence.
    - 3. The client must be advised promptly in writing of the decision and the basis for the determination.
  - (b) Approval of Good Cause Claim. If the evidence and/or the investigation substantiate that good cause exists, the Department will notify the client, advising him/her that the Office of Child Support Services will not proceed with any activities to establish paternity and/or secure support in relation to the particular absent parent and child (ren) as long as the good cause circumstances exists.
  - (c) Periodic Review of Approved Good Cause Claims. The decision will be reviewed at each eligibility redetermination only if the original decision was based on a circumstance that is subject to change.
  - (d) Denial of Good Cause Claim.
    - 1. A good cause claim may be denied if:
      - (i) the client has not furnished evidence within 20 days and has not requested assistance in obtaining the evidence nor requested and been granted an extension of the time limit;
      - (ii) the evidence submitted does not substantiate the claim and the client has not submitted additional evidence which does corroborate it;
      - (iii) the client has not provided information necessary for an agency investigation if this is needed; or
      - (iv) documentary evidence or agency investigation substantiate that the claim is not valid.
    - 2. If the decision is that good cause does not exist, the client will be notified of the decision and given an opportunity to cooperate, withdraw the application for assistance, or have the case closed. In the event of continued refusal to cooperate, the IV-D sanctions will be applied to the case.

(Rule 1240-1-3-.36, continued)

3. A redetermination of a previously denied claim of good cause will be made only if there is new documentary evidence or information provided which indicates a need for further action or investigation. A client who has been penalized for failure to cooperate after his/her good cause claim was denied must remain under penalty unless good cause is later substantiated (or the client demonstrates willingness to cooperate).
- (6) Coordination with the IV-D Agency. The IV-D agency will be kept advised of good cause activities on approved AFDC cases.
  - (a) Reserved for future use.
  - (b) Reserved for future use.
  - (c) Reserved for- future use.
    1. Reserved for future use.
    2. If an appeal is filed on this issue, this information will be included on the notice to the client.

**Authority:** T.C.A. §14-8-106; 45 C.F.R. 232.11 and 232.40 through 232.47. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.

#### **1240-1-3-.37 CHILD SUPPORT SANCTIONS.**

- (1) If a caretaker relative fails or refuses to comply with either the assignment requirement or, without good cause, the cooperation requirement, the following penalties must be applied to the case:
  - (a) The caretaker relative will not be included in the aid group;
  - (b) Eligibility for and amount of AFDC assistance for the children will be determined without regard to the needs of the caretaker relative;
  - (c) Any AFDC assistance payment for which the children remain eligible must be made to a protective payee, if one can be identified.
- (2) Notice to the A/R. The application of sanctions to a case for refusal to assign support rights or to cooperate in support activities will be accompanied by advance notice.
- (3) Special Situations. Application of sanctions in the event of refusal/failure to comply will vary due to the special circumstances of these cases:
  - (a) Protective Payment Already Established
    1. WIN sanction case - No further penalty can be applied to the case. The client will be advised of the concurrent IV-D sanction since compliance with only the WIN requirements would not remove the penalties unless there is also compliance with IV-D.
    2. Other protective payee cases - The AFDC grant will be computed without regard to the needs of the caretaker relative and the client will be given appropriate notice of the action.
  - (b) Non-Caretaker Cases.

(Rule 1240-1-3-.37, continued)

1. Minor parent - If a minor parent receiving AFDC for his/her child in a non-caretaker grant refuses to comply with support requirements on behalf of his/her child, a protective payment will be established for the child's grant. Penalties related to treatment of minor parent's income will also be enforced.
  2. Non-caretaker cases. The possibility of establishing a protective payee is explored if the children remain eligible after the grant is computed without regard to the needs of the caretaker relative.
- (4) Discontinuance of Sanctions.
- (a) Support sanctions will be removed if the client demonstrates willingness to comply by taking whatever action he/she has previously refused or failed to do. The protective payment arrangement will be dissolved and the caretaker's needs will be considered in the AFDC budget retroactively to the date on which the required action was taken.

**Authority:** T.C.A. §§ 14-1-105 and 14-8-106; 45 C.F.R. 232. 11 and 234.60 (a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed September 19, 1985; effective December 14, 1985.

#### **1240-1-3-.38 BUDGETING PROCEDURES.**

- (1) AFDC Applications.
  - (a) Support from an absent parent is considered as currently available income in the initial determination of eligibility. Support payments, less the child support "bonus", are used to test eligibility. If the family is eligible, a grant is approved excluding the support.
  - (b) Support received during the period the application is pending may be retained by the family and counted as income in determining the amount of the retroactive payment due the family. The client must forward support payments to the state beginning with the first payment received after being notified of the AFDC approval. Any support received and retained after approval is subject to IV-D recovery.
- (2) Active cases. For active AFDC cases not under sanctions, AFDC eligibility is computed without regard to support payments except in the following types of cases:
  - (a) If the client or IV-D reports (or the worker discovers) that support is being received directly by the A/R, the following actions will be taken depending on the circumstances:
    1. If the A/R refuses to agree to submit any subsequent support payments to the State Office, the worker will compute a budget less the child support bonus to determine continuing eligibility and apply sanctions for failure/refusal to cooperate (under rule 1240-1-3-.37).
    2. If the A/R agrees to submit future support payments to the State Office, no further action is taken in this regard unless the support causes ineligibility, or unless the applicant/recipient later refuses to cooperate with recovery efforts.
  - (b) When support collections equal or exceed the grant amount, a redetermination of eligibility will be made within 30 days. Budget calculations will be based on the R.R.S. minus the voluntary/court ordered amount of the support after deduction of the child support bonus, plus other net countable income. The total amount of any retained voluntary support minus the child

(Rule 1240-1-3-.38, continued)

support bonus is counted in this redetermination. The ordered amount or the actual amount of support collected, whichever is less, is counted in this redetermination when the retained support is court ordered. Collections made prior to 10/1/82 will be retained by IV-D pending action of IV-A, to be disbursed to the family or individual(s) following closure. Collections made 10/1/82 and later will be retained by IV-D for reimbursement of the AFDC grant received by the family during the month of the support collection that causes ineligibility. If the Department terminates the grant, only the excess of the court ordered amount of the collection over the grant amount will be paid to the family from these particular collections.

- (c) Collections in excess of the court-ordered amount, over the grant amount or CNS are counted as income if received by an active case.
- (3) Reapplications/Cases Closed Due to Support Collections.
- (a) Support by an absent parent paid irregularly may result in reapplication quickly following case closures.
  - (b) Terminations/removals due to support collections made 10/1/82 and later allow reapproval of a case/individual effective the month of closure/removal if reapplication is made during that time and no subsequent support is received by the family.
  - (c) Support collections (court ordered amount) made prior to 10/1/82 which cause ineligibility will be forwarded to the family following case closure/removal of individual(s) from the aid group. Application of benefits for these particular individual(s) during the initial month of closure must be denied.
- (4) Sanctioned Cases.
- (a) For cases under penalty for refusal to assign support rights or failure to cooperate, any support payments received by the client must be included as income in the budget for the children until such time as the client complies with the eligibility requirements (or, in the case of failure to cooperate, until such time that the IV-D agency advises that payments have been rerouted to DHS).
  - (b) Reserved for future use.

**Authority:** T.C.A.. §§14-1-105 and 14-8-106; 45 C.F.R. 232.11, 232.12 and 234.60. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed September 19, 1985; effective December 14, 1985.

#### **1240-1-3-.39 TREATMENT OF SUPPORT PAYMENTS.**

- (1) When an assignment is in effect on an AFDC case, any support paid on behalf of the aid group members must go to the state to be disbursed by the IV-D agency in accordance with Federal regulations.
- (2) If the payments are insufficient to meet the family's (or individual children's) needs by DHS grant standards, the family receives the full AFDC grant to which it is entitled, disregarding the support, which is used to reimburse state and Federal AFDC funds expended on the family. In those few cases in which the family's ratably reduced need is greater than the state's maximum payment, a portion of the monthly collections on a case may be sent to the family to meet any budgetary deficit.
- (3) If the payments do meet the needs of the family (or child), the AFDC grant must be terminated (or the child removed from the grant), and the support payments will then go to the family. Should payments

(Rule 1240-1-3-.39, continued)

not continue at a level sufficient to meet the family's (or child's) needs, the client may reapply for AFDC.

**Authority:** T.C.A. §14-8-106; 45 C.F.R. 232.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.40 REPEALED.**

**Authority:** T.C.A. §§14-1-104 and 14-27-104. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal filed September 19, 1985; effective December, 1985.

**1240-1-3-.41 REPEALED.**

**Authority:** T.C.A. §§14-1-105, 14-8-104, 14-8-106, and 14-27-104; PL 97-248 §173; 45C.F.R. 224.50 and 232.20 (a). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed March 28, 1983; effective April 27, 1983. Repeal filed September 19, 1985; effective December 14, 1985.

**1240-1-3-.42 RESERVED FOR FUTURE USE.**

**Authority:** T.C.A. §§14-8-106 and 14-27-104; 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.43 FOOD STAMP PROGRAM WORK REQUIREMENTS.**

- (1) Each household member who is not exempt (as described in paragraph (2) below) must be registered for employment at the time of application for food stamps, and once every twelve months after initial registration.
- (2) Exemptions from work registration. The following persons are exempt from the work registration requirements:
  - (a) persons younger than age 16 or older than 59;
  - (b) persons age 16 or 17 who are not the head of household, or who are attending school, or who are enrolled in an employment training program on at least a half-time basis;
  - (c) persons who are mentally or physically unfit for employment;
  - (d) persons subject to and complying with any Families First work requirements;
  - (e) a parent or other household member who is responsible for the care of a dependent child under age 6 or an incapacitated person;
  - (f) persons who receive unemployment compensation. Persons who have applied for, but have not begun to receive, unemployment compensation also are exempt if they were required to register for work as part of the unemployment compensation application process;
  - (g) regular participants in drug addiction or alcoholic treatment and rehabilitation programs;
  - (h) persons who are employed or self-employed and who are working at least 30 hours weekly or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours. This includes migrant and seasonal farmworkers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days;

(Rule 1240-1-3-.43, continued)

- (i) students enrolled at least half-time in any generally and objectively recognized school, training program, or institution of higher education. Such students shall remain exempt during normal periods of class attendance, vacations, and recesses, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer).
- (3) Work Registrant's Responsibilities. Mandatory work registrants must:
  - (a) participate in an employment and training program if assigned by the State;
  - (b) provide sufficient information to allow the Department to determine employment status or the job availability of the individual;
  - (c) report to an employer to whom referred by the State, unless the potential employment is "unsuitable" as determined under paragraph (4);
  - (d) accept a bona fide offer of employment unless the employment is "unsuitable" as determined under paragraph (4).
- (4) Unsuitable Employment. Examples of unsuitable employment include, but are not limited to, the following:
  - (a) the wage offered is less than the federal minimum wage, or 80% of the federal minimum wage when the federal minimum wage is not applicable;
  - (b) the wage offered is on a piece-rate basis and the average hourly yield that the employee reasonably can be expected to earn is less than the federal minimum wage;
  - (c) as a condition of employment, the household member is required to join, resign from, or refrain from joining any legitimate labor organization;
  - (d) the work offered is at a site subject to a strike or lockout at the time of the offer, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act;
  - (e) the degree of risk to health and safety is unreasonable;
  - (f) the person is physically or mentally unable to perform the employment;
  - (g) the employment offered within the first 30 days of registration is not in the member's major field of experience;
  - (h) the distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting;
  - (i) the working hours or nature of the employment interferes with the member's sincerely held religious observances, convictions, or beliefs;
  - (j) other good reasons that would lead a reasonable person to conclude the employment is unsuitable for the individual.
- (5) Special Requirements for Non-Exempt Able-Bodied Adults Without Dependents.

(Rule 1240-1-3-.43, continued)

- (a) A household member who is otherwise eligible for food stamp benefits, who is at least 18 years of age but not yet 51 years of age, may not participate in the food stamp program if, during the preceding 36-month eligibility period, he/she received food stamps for at least five (5) months (separate or consecutive) during which he/she did not:
  - 1. work at least 20 hours per week, averaged monthly;
  - 2. participate in and comply with the requirements of a work program approved by the Department, for at least 20 hours per week; such programs include:
    - (i) a program under the Job Training and Partnership Act;
    - (ii) a program under section 296 of the Trade act of 1974;
    - (iii) an employment and training program operated by a state or political subdivision of the state and approved by the Governor, other than a job search or a job search training program.
  - 3. participate in and comply with the requirements of any state-established work-fare program that may be implemented.
- (b) The requirements in (5)(a) above shall not apply to an individual who is:
  - 1. under 18 or over 50 years of age;
  - 2. medically certified as physically or mentally unfit for employment;
  - 3. a parent or other household member who has primary responsibility for the care of a dependent child;
  - 4. a pregnant woman; or
  - 5. has regained eligibility to participate in the food stamp program by, during a 30-day period:
    - (i) working 80 or more hours;
    - (ii) participating in and complying with the requirements of a work program for 80 or more hours, as determined by the Department; or
    - (iii) participating in and complying with the requirements of any state established work-fare program that may be implemented.
- (c) An individual who regains eligibility by meeting the requirements of (5)(b) above shall remain eligible as long as he/she continues to meet the requirements of (5)(a) above.
- (d) An individual who regained eligibility by meeting the requirements of (5)(b) above, but no longer meets the requirements under (5)(a) above, is not eligible for any food stamp benefits in any household for more than a single consecutive 3-month period in any 36-month period.

**Authority:** T.C.A. §§4-5-201 et seq., 14-8-106, 14-27-104, 71-1-105, 71-1-105(12), 71-5-304, 71-3-154(h), 7 USC § 2015(d) and (o), 45 C.F.R. 244.50, 7 C.F.R. 273, 7 CFR 273.7, 49 PL 104-93 §824, Federal Register 39036, 51, and Federal Register 250 (December 31, 1986). **Administrative History:** Original rule filed August 15, 1980;

(Rule 1240-1-3-.43, continued)

*effective September 29, 1980. Amendment filed August 28, 1981; effective October 13, 1981. Amendment filed March 22, 1985; effective April 21, 1985. Amendment filed May 8, 1987; effective August 29, 1987. Repeal and new rule filed May 8, 1987; effective August 29, 1987. Amendment filed April 4, 1997; effective June 18, 1997. Amendment filed September 18, 2001; effective December 2, 2001. Amendment filed January 31, 2003; effective April 16, 2003. Amendment filed February 27, 2004; effective May 12, 2004.*

**1240-1-3-.44 EMPLOYMENT AND TRAINING COMPONENTS.** The Department of Human Services will establish employment and training components for food stamp applicants and recipients. Mandatory work registrants and volunteers may be assigned to or exempted from such components based on criteria established by the department.

**Authority:** T.C.A. §§14-8-106 and 14-27-104; 7 C.F.R. 273.7, 273.8, and 273.9; 49 Federal Register 39036; 45 C.F.R. 224.50; 51 Federal Register 250 (December 31, 1986). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed November 6 1980; effective December 22, 1980. Amendment filed March 22, 1985; effective April 21, 1985. Amendment filed April 15, 1986; effective July 14, 1986. Repeal and new rule filed May 8, 1987; effective August 29, 1987.

**1240-1-3-.45 FAILURE TO COMPLY, GOOD CAUSE, AND DISQUALIFICATION.**

- (1) When a non-exempt individual fails or refuses to comply with the requirements set out in 1240-1-3-.43, without good cause, the individual will be ineligible to participate in the Food Stamp Program for:
  - (a) the first violation, one (1) month or until compliance, whichever is later;
  - (b) the second or subsequent violation, 3 months or until compliance, whichever is later.
  - (c) During the period of disqualification, the individual will be treated as an excluded household member as described in §1240-1-4-.17(7)(a)1.(ii).
- (2) Determining Good Cause. Good Cause for failure to comply with the Food Stamp Program work requirements includes circumstances beyond the household member's control, such as, but not limited to:
  - (a) personal illness, or illness of another household member which requires the individual's presence;
  - (b) household emergencies which prevent compliance;
  - (c) lack of transportation;
  - (d) the lack of adequate child care for children who have reached age 6, but are under age 12.
- (3) Implementing the Disqualification.
  - (a) Within 10 days of determining that the noncompliance was without good cause, the county office will authorize the adverse action and a 10-day adverse action notice will be sent to the individual or household. The notice will specify:
    1. the particular act of noncompliance committed;
    2. the proposed period of disqualification and that the individual or household may reapply at the end of the disqualification period;

(Rule 1240-1-3-.45, continued)

3. a description of the action which can be taken to end or avoid the sanction.
- (b) The disqualification period will begin with the first month following the expiration of the adverse action notice period, unless a fair hearing is requested.
- (c) Each individual or household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to a determination of nonexempt status or a determination of failure to comply with the work registration or employment and training requirements.
- (4) Ending the Disqualification.
  - (a) The disqualification for failure to comply with the work requirements will continue until the member who caused the violation complies with the requirement or becomes exempt from the requirement (other than exemption through the cash assistance program under Title IV-A of the Social Security Act or unemployment compensation work requirements), or for 3 months, whichever is later.
  - (b) If any household member who failed to comply joins a new household, the individual will remain ineligible for the rest of the disqualification period.
- (5) Failure to Comply with a Families First work requirement which results in a disqualification for benefits in that program for a household or a household member will result in a ten percent (10%) reduction in the household's food stamp allotment.

**Authority:** T.C.A. §§4-5-201 et seq., 4-5-202, 71-1-105, 71-3-157, 71-3-158, PL 104-193, and 7 C.F.R. 273.7(g).  
**Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed November 6, 1980; effective December 22, 1980. Amendment filed August 28, 1981; effective October 13, 1981. Repeal and new rule filed May 8, 1987; effective August 29, 1987. Amendment filed April 4, 1997; effective June 18, 1997. Amendment filed September 18, 2001; effective December 2, 2001.

**1240-1-3-.46 DISQUALIFICATION FOR VOLUNTARILY QUITTING A JOB OR REDUCING WORK EFFORT.** A household member who voluntarily quits his/her job of at least twenty (20) hours per week or voluntarily reduces his/her work hours to less than thirty (30) hours per week, without good cause, is subject to disqualification from participation in the Food Stamp Program.

- (1) A household member who voluntarily quits a job of less than twenty (20) hours per week will be disqualified from the program if his/her weekly earnings were at least equivalent to the federal minimum wage multiplied by twenty (20) hours.
- (2) The provision in 1240-1-3-.46(1) does not apply when:
  - (a) For applicant households, a voluntary quit or voluntary reduction occurred more than sixty (60) days prior to the date of application, unless the household was receiving benefits at the time of the quit or reduction, but the Department did not learn about it until reapplication.
  - (b) The individual was on leave from a paid position of employment pursuant to the provisions of the Family Medical Leave Act of 1993, unless the individual does not return to work at the end of the period of leave.
  - (c) An involuntary reduction of work hours is imposed.
  - (d) The individual terminates a self-employment enterprise.
  - (e) The individual resigns from a job at the demand of the employer.

(Rule 1240-1-3-.46, continued)

- (f) The household member who quit his/her job secures new employment at comparable wages or hours and is then laid off, or through no fault of his own loses the new job. In this instance the earlier quit will not require his/her disqualification.
    - 1. “Comparable wages or hours” does not require that the new job pay equal wages or provide equal hours of work; consideration must be given to new employment which might entail fewer hours or a lower salary, but which offers greater opportunities to improve job skills for future advancement.
  - (g) The individual was determined to have quit or reduced his/her hours with good cause.
- (3) Determining Good Cause. Good cause for quitting a job or reducing the hours of employment includes, but is not limited to:
- (a) The job is determined to be unsuitable, as described in 1240-1-3-.43(4);
  - (b) Circumstances beyond the individual’s control, such as illness, illness of another household member which requires the individual’s presence, a household emergency, or unavailability or transportation;
  - (c) Discrimination by an employer based on age, sex, race, color, handicap, religious beliefs, national origin, or political beliefs;
  - (d) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;
  - (e) Enrollment or at least half-time in any recognized school, training program or institution of higher learning that requires the household member to leave employment or reduce work hours;
  - (f) Another household member has accepted employment or enrolled at least half-time in a recognized school, training program, or institution of higher education in another county, which requires the household to relocate;
  - (g) Resignation by a person under age sixty (60) which is recognized by the employer as retirement;
  - (h) The individual accepted a bona fide offer of employment of more than twenty (20) hours a week or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by twenty (20) hours which, because of circumstances beyond the person’s control, the new job does not materialize or results in employment of less than twenty (20) hours a week or weekly earnings of less than twenty (20) times the Federal minimum wage;
  - (i) The individual left a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work. The household may apply for food stamps between jobs, particularly when work is not yet available at the new job site. In such instances, the individual will be considered to have quit for good cause if this is a normal pattern of that type of employment.
- (4) An employee of the Federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his/her job because of participation in the strike, shall be considered to have voluntarily quit his/her job without good cause.
- (5) Verification of Voluntary Quit/Good Cause Determination.

(Rule 1240-1-3-.46, continued)

- (a) The household has the primary responsibility for providing verification of questionable information related to the voluntary quit/reduction and good cause determination. When it is difficult or impossible for the household to obtain evidence in a timely manner, the county will offer to assist the household. Acceptable sources of verification include but are not limited to:
    - 1. The previous or current employer;
    - 2. Employee associations;
    - 3. Union representative;
    - 4. Grievance committees and organizations;
    - 5. When documentary evidence cannot be obtained, the case manager is responsible for obtaining verification from an acceptable collateral contact provided by the household.
  - (b) When the circumstances of the quit/reduction cannot be verified for good reasons, the individual member will not be denied participation in the program. Examples of good reasons are resignation from employment due to discriminatory practices or unreasonable demands by the employer, or because the employer cannot be located.
- (6) Implementing a Voluntary Quit/Reduction of Work Hours Disqualification.
- (a) Applicant Households. When a determination is made that good cause did not exist for the voluntary quit or reduction, the individual will be disqualified from participating in the Food Stamp Program, as follows:
    - 1. for the first violation, one (1) month or until compliance, whichever is later;
    - 2. for the second or subsequent violation, three (3) months or until compliance, whichever is later;
    - 3. The household shall be provided a notice of denial explaining the proposed period of disqualification, the right to reapply at the end of the sanction period, and the right to a fair hearing.
  - (b) Participating Households. When a determination is made that good cause did not exist for the voluntary quit or reduction, the individual will be disqualified from participating in the Food Stamp Program, effective the month following the expiration of the notice of adverse action, as follows:
    - 1. for the first violation, one (1) month or until compliance, whichever is later;
    - 2. for the second or subsequent violation, three (3) months or until compliance, whichever is later;
    - 3. The household shall be provided a termination notice explaining the proposed period of disqualification, the right to reapply a the end of the sanction period, and the right to a fair hearing.
    - 4. When a participating household requests a fair hearing, with benefits to continue, and the Department's action is upheld, the disqualification will begin the first month after the decision is rendered.

(Rule 1240-1-3-.46, continued)

- (c) When a disqualified individual joins another household, the sanction will follow the individual who caused the disqualification, and the remainder of the sanction period will apply to that individual.
- (7) Ending the Disqualification.
  - (a) Disqualification of an individual shall be applied for the appropriate minimum time period even if the household member cures the disqualification during that period.
    - 1. If an individual has failed to comply at the end of the minimum disqualification period, the disqualification shall continue until the individual cures the disqualification or becomes exempt from work registration requirements.
    - 2. To cure the disqualification, the member must obtain employment comparable to the employment he/she quit, or increase work hours to at least thirty (30) hours per week unless such an increase is no longer possible through no fault of the employee.
  - (b) Eligibility may be reestablished during a disqualification period if the member who caused the disqualification becomes exempt from the work registration requirements, other than through the work requirements of a program under Title IV-A of the Social Security Act or Unemployment Compensation.

**Authority:** T.C.A. §§4-5-201 et seq., 14-27-104, 71-5-304, 7 C.F.R. 273.7, 7 C.F.R. 273.7(d)(2), 7 C.F.R. 273.7(h), 7 C.F.R. 273.7(n)(1)-(5), 7 USC § 2015(d)(1)(A)(v), 7 USC § 2014(g), and 51 Federal Register 250 (December 31, 1986). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. New rule filed August 28, 1981; effective October 13, 1981. Repeal and new rule filed May 8, 1987; effective August 29, 1987. Amendment filed April 4, 1997; effective June 18, 1997. Amendment filed September 18, 2001; effective December 2, 2001.

#### **1240-1-3-.47 REPEALED.**

**Authority:** T.C.A. §§14-8-106 and 14-27-104; 7 C.F.R. 224.50; 51 Federal Register 250 (December 31, 1986). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal filed May 8, 1987; effective August 29, 1987.

#### **1240-1-3-.48 REPEALED.**

**Authority:** T.C.A. §§14-27-104; 7 C.F.R. 273.7; 49 Federal Register 39036; 51 Federal Register 250 (December 31, 1986). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed November 6, 1980; effective December 22, 1980. Amendment filed August 28, 1981; effective October 13, 1981. Amendment filed March 22, 1985; effective April 21, 1985. Repeal filed May 8, 1987; effective August 29, 1987.

#### **1240-1-3-.49 REPEALED.**

**Authority:** T.C.A. §4-5-202; 71-1-105; 42 USC §601, Repealed; PL 100-485, Title 11, § 202(a), October 13, 1988; Acts of 1996, Chapter 950 §26. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982. Repeal and new rule filed November 21, 1985; effective February 12, 1986. Repeal filed July 28, 2000; effective October 11, 2000.

**1240-1-3-.50 REPEALED.**

**Authority:** T.C.A. §4-5-202; 71-1-105; 42 USC §601, Repealed; PL 100-485, Title 11, § 202(a), October 13, 1988; Acts of 1996, Chapter 950 §26. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. New rule filed October 15, 1984; effective January 15, 1985. Repeal and new rule filed November 21, 1985; effective February 12, 1986. Repeal filed July 28, 2000; effective October 11, 2000.

**1240-1-3-.51 RESERVED FOR FUTURE USE.**

**Authority:** T.C.A. §14-8-106; 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.52 REPEALED.**

**Authority:** T.C.A. §14-8-106; PL 97-35; 45 C.F.R. 224.20; PL 98-368 §2631. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982. Amendment filed January 7 1985; effective February 6, 1985. Repeal filed November 21, 1985; effective February 12, 1986.

**1240-1-3-.53 REPEALED.**

**Authority:** T.C.A. §4-5-202; 71-1-105; 42 USC §601, Repealed; PL 100-485, Title 11, § 202(a), October 13, 1988; Acts of 1996, Chapter 950 §26.. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed November 21, 1985; effective February 12, 1986. Repeal filed July 28, 2000; effective October 11, 2000.

**1240-1-3-.54 REPEALED.**

**Authority:** T.C.A. §4-5-202; 71-1-105; 42 USC §601, Repealed; PL 100-485, Title 11, § 202(a), October 13, 1988; Acts of 1996, Chapter 950 §26. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed November 21, 1985; effective February 12, 1986. Repeal filed July 28, 2000; effective October 11, 2000.

**1240-1-3-.55 REPEALED.**

**Authority:** T.C.A. §4-5-202; 71-1-105; 42 USC §601, Repealed; PL 100-485, Title 11, § 202(a), October 13, 1988; Acts of 1996, Chapter 950 §26. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed May 17, 1983; effective June 16, 1983. Repeal and new rule filed November 21, 1985; effective February 12, 1986. Repeal filed July 28, 2000; effective October 11, 2000.

**1240-1-3-.56 REPEALED.**

**Authority:** T.C.A. §14-8-10 and 42 USC 614. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal filed November 21, 1985; effective February 12, 1986.

**1240-1-3-.57 RESERVED FOR FUTURE USE.**

**Authority:** T.C.A. §14-8-106 and 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.58 RESERVED.**

**Authority:** T.C.A. §14-8-106; 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15 1980; effective September 29, 1980.

**1240-1-3-.59 RESERVED.**

**Authority:** T.C.A. §14-8-106; 45 C.F.R. 224.50. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980.

**1240-1-3-.60 STRIKERS - AFDC ONLY.**

- (1) Definitions.
  - (a) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted showdown or other concerted interruption of operation by employees.
  - (b) The term "participating in a strike" means an actual refusal in concert with others to provide services to one's employers.
- (2) Eligibility Factors.
  - (a) If a parent with whom the children live is participating in a strike, the entire aid group is ineligible for as long as the parent is on strike. The parent does not have to be a member of the aid group to cause ineligibility.
  - (b) If an aid group member other than a parent is participating in a strike, that individual is ineligible for assistance as long as he/she is on strike.
  - (c) If a payment of AFDC benefits has already been made for any month(s) in which a parent or other aid group member participated in a strike as of the last day of the month, the payment (or the individual's share) for the entire month constitutes an overpayment subject to recovery.

**Authority:** T.C.A. §14-8-106; 45 C.F.R.. 233.106. **Administrative History:** Original rule filed August 17 1982; effective September 16, 1982.

**1240-1-3-.61 REPEALED.**

**Authority:** T.C.A. §§14-8-106(2), 14-27-104(2); PL 97-253 §6(c)(1); 7 C.F.R. 272.1; 273.21; 45 C.F.R. 233.31 through 233.37. **Administrative History:** Original rule filed August 17, 1982; effective September 16, 1982. Amendment filed May 17, 1983; effective June 16, 1983. Amendment filed December 6, 1983; effective January 5, 1984. Repeal filed March 1, 1991; effective April 13, 1991.